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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---|-----------------------------|
| 10/678,646 | 10/06/2003 | Timothy L. Robinson | 134779.10101 | 7815 |
| 84646 | 7590 | 01/24/2011 | | |
| Williams Mullen 222 Central Park Avenue Suite 1700 Virginia Beach, VA 23462 | | | EXAMINER VANDERHORST, MARIA VICTORIA | |
| | | | ART UNIT 3688 | PAPER NUMBER |
| | | | NOTIFICATION DATE 01/24/2011 | DELIVERY MODE ELECTRONIC |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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| | | | |
|--|---|--|--|
| <i>Advisory Action Before the Filing of an Appeal Brief</i> | Application No. 10/678,646 | Applicant(s) ROBINSON ET AL. | |
| | Examiner VICTORIA VANDERHORST | Art Unit 3688 | |

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 January 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 33,35-58 and 60.
 Claim(s) withdrawn from consideration: 1-32.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
The amendment does not place the instant application in condition for allowance because Bianco's solution discloses all the limitations claimed in the instant application. The amended claims do not overcome the prior art.

Some reasons for the rejection: first of all, Bianco's solution discloses receiving enrollment data, see Fig. 13, the system creates a database object and enrollment object to be stored in the database, Fig. 13A, further Bianca teaches several enrollment stations, pre-enroll sessions, and a final enrollment session to end the enrollment process, Fig. 13B.

Secondly, Bianco's solution comprises at least a biometric policy which contains the devices that the user needs to enroll to complete the enrollment process, each device, to enroll, creates a biometric template. Once the user has completed the enrollment process in the last biometric device the enrolled process is ended and the user is ready for authentication, see at least Fig. 13B elements 1328, 1330, Col. 19:24-40, and Col. 2:53-66.

Further, regarding to the argument "In the instant system, however, the individual cannot authenticate himself until the piecemeal enrollment has resulted in the collection of the necessary data to activate the account", in summary, Bianco's system discloses biometric policies to determine the method in which a user is to be authenticated. The user is not authenticated until he or she passes a biometric policy, See Col. 29:60-67 and Col. 30:1-5. Furthermore, the type of devices the user needs to be enrolled in are determined by looking at the biometric policy, see Col. 19:24-40.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
 13. ☐ Other: _____

/JOHN G. WEISS/
Supervisory Patent Examiner, Art Unit 3688

/M. VICTORIA VANDERHORST/
Examiner, Art Unit 3688